

1 JOEL K. BELWAY [60556]
2 THE LAW OFFICE OF JOEL K. BELWAY
3 Professional Corporation
4 235 Montgomery St., Suite 668
5 San Francisco, CA 94104
6 Telephone: (415) 788-1702
7 Facsimile: (415) 788-1517

5 *Attorney for Debtor*
BRUGNARA PROPERTIES VI

In re
13
14 BRUGNARA PROPERTIES VI,
15 Debtor.
Federal ID No. 91-2003281

Chapter 11 No. 10-33637

DEBTOR'S OPPOSITION TO U.S.
TRUSTEE'S MOTION TO CONVERT
CASE TO CHAPTER 7 UNDER 11
U.S.C. § 1112(b)

Date: June 3, 2011

Time: 10:00 a.m.

Court: Judge Montali
Courtroom 22

21 Debtor and debtor-in-possession, Brugnara Properties VI
22 ("Debtor"), submits this opposition to the Motion to Convert Case
23 to Chapter 7 Under 11 U.S.C. § 1112(b) (the "Motion") of the
24 United States Trustee ("Trustee").

25 Debtor believes it has satisfied the technical reporting and
26 information furnishing requirements of the Trustee. It has filed
27 all operating reports due through this date, it has furnished the
28 signature card to the Trustee for the DIP account at Wells Fargo

1 Bank and has furnished information of the insurance for Debtor's
2 residential real property located at 224 Sea Cliff Avenue in San
3 Francisco, California (the "Property"). Debtor has also paid the
4 Trustee's quarterly fees due in this case.

5 Beyond the technical matters raised in the Motion, Debtor
6 filed, on May 11, 2011, a Second Amended Disclosure Statement for
7 Chapter 11 Plan of Reorganization ("Disclosure Statement") and a
8 Second Amended Chapter 11 Plan ("Plan"). The hearing on the
9 Disclosure Statement has been continued to June 3, 2011, to
10 coincide with the hearing on the Motion.

11 Debtor's principal, Katherine Brugnara, operating under very
12 stressful personal family circumstances which have affected the
13 ability of the Debtor to pay the two mortgages against the
14 Property and the San Francisco property tax, is doing her best to
15 take the steps that would lead to payment of all claims of the
16 few creditors in this case. She is making progress in those
17 endeavors and will continue to do everything she can to cause the
18 Debtor to pay all claims against it. She resides in the Property
19 with her four children, while her husband, Luke Brugnara, is
20 presently in federal custody.

21 While Debtor regrets having been slow to stay on top of the
22 Trustee's technical requirements, there has been compliance and
23 there was never refusal to comply with anything. Mrs. Brugnara's
24 personal circumstances, as set forth in great detail in the
25 Disclosure Statement, have made the seemingly easy requirements
26 more difficult to fulfill, but fulfill them she has.

27 By its Disclosure Statement and Plan, filed May 11, 2011,
28 Debtor attempted to address the deficiencies identified by the

1 Trustee in an objection to the Debtor's prior disclosure
2 statement and plan. In conversation with the representative of
3 the Trustee, Debtor's counsel has been apprised of some
4 additional potential objections by the Trustee, and Debtor will
5 attempt to address those. Specifically, Debtor will provide by
6 amendment to its Plan for a sale of the Property by a date
7 certain, if Debtor's efforts, through the assets of Mrs.
8 Brugnara, have not produced payment of the claims as proposed by
9 the Plan by such a date. Therefore, a sale of the Property will
10 be the ultimate means of satisfying the creditors' claims.

11 In the meantime, Mrs. Brugnara is attempting to obtain the
12 information regarding her interest in the substantial community
13 assets of her marriage, which assets are, she is informed,
14 detailed in a pre-sentencing report generated by the United
15 States Government in connection with the sentencing of Mr.
16 Brugnara upon his conviction in a federal criminal case. Those
17 assets will provide the preferred alternative to a sale of the
18 Property as the means of satisfying the claims herein.

19 Any perceived shortcomings that the Trustee sees with the
20 Plan and the Disclosure Statement can be addressed at the hearing
21 on the Disclosure Statement and ultimately at a hearing on
22 confirmation of the Plan. Debtor has proposed a feasible means
23 of full payment of creditors' claims, and this case should be
24 allowed to continue through the Plan confirmation process to its
25 ultimate conclusion.

26 Based upon the foregoing and the record of this case, Debtor
27 requests that the Court deny the Motion.

1

Respectfully submitted,

2

3 Dated: May 19, 2011

/s/ Joel K. Belway

4

JOEL K. BELWAY

5

Attorney for Debtor

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

DECLARATION OF SERVICE

I am over the age of eighteen years and not a party to the
within action. On May 19, 2011, I served the **DEBTOR'S OPPOSITION**
TO U.S. TRUSTEE'S MOTION TO CONVERT CASE TO CHAPTER 7 UNDER 11
U.S.C. § 1112(b) on the following interested parties in this
action via First-Class U.S. Mail:

Donna S. Tamanaha, Esq.
U.S. Trustee's Office
235 Pine Street, Suite 700
San Francisco, CA 94104

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on May 19, 2011, at San Francisco, California.

/s/ Kathleen S. Belway
KATHLEEN S. BELWAY